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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CALIFORNIA COALITION FOR WOMEN
PRISONERS et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA FEDERAL
BUREAU OF PRISONS et al.,

Defendants.

Case No. 4:23-cv-04155-YGR

**PLAINTIFFS' EX PARTE REQUEST
FOR ENLARGEMENT OF TIME
UNDER FED. R. CIV. P. 6(b) &
4(i)(4)(B)**

Judge: Hon. Yvonne Gonzalez Rogers

Trial Date: None Set

1 Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Plaintiffs hereby
2 request an extension of time to serve the individual Defendants who have not yet been
3 served. Plaintiffs have complied with FRCP Rule 4(i)(3) by serving the United States as to
4 all individual Defendants. Under Rule 4(i)(4)(B), Plaintiffs are entitled to a “reasonable
5 time” to complete service on all individual Defendants.

6 A defendant must be served within 90 days of the filing of a complaint. Fed. R. Civ.
7 P. 4(m). The “reasonable time” extension of Rule 4(i)(4)(B) applies where, as here, the
8 Plaintiffs have served the United States, but require more time to complete service on the
9 individual capacity Defendants. The complaint in this case was filed on August 16, 2023.
10 See ECF 1. Within the 90-day time period, Plaintiffs completed service on nine of the
11 fifteen Defendants in this matter, including the BOP Director, then-Warden Jushino, and
12 six individual BOP employees.. For the remaining defendants, six other individual
13 employees or ex-employees of the Bureau of Prisons, Plaintiffs had completed the first
14 required step of service—service on the United States—well within the 90-days. See ECF
15 No. 43. On November 10, 2023, the Plaintiffs moved for an extension of time to complete
16 service on the remaining six defendants. On November 27, 2023, the Court extended time
17 for service to February 9, 2024. On February 7, 2024, the Court extended time for service
18 to March 15, 2024. Since then, Plaintiffs have been informed that service upon Defendants
19 Serrano, Lewis, Vasquez, and C. Jones has been completed. Plaintiffs are awaiting proofs
20 of service.

21 Plaintiffs’ Counsel have undertaken exhaustive efforts to complete service on the
22 remaining individual Defendants, and have been able to serve all but two defendants.

23 1. Officer Darrell Wayne Smith. Plaintiffs have attempted personal service at
24 Smith’s last known address in Florida nine times between September 14, 2023 and January
25 29, 2024. The house appears to be occupied, but no one responds to the attempts at
26 service. Galvan Decl. ¶¶ 2a-i. Plaintiffs’ counsel has contacted Officer Smith’s criminal
27 defense counsel in the matter *United States v. Smith*, No. 23-CR-00110 YGR, to confirm
28 the address and to ask whether counsel would accept service on his behalf. Galvan Decl. ¶

1 2h, Exhibit G. Counsel confirmed the address but decline to accept service. Plaintiffs
 2 have also attempted service via USPS certified mail, but the items were returned
 3 undelivered. Plaintiffs have now requested the Court authorize service by publication.

4 2. Officer Nakie Nunley. Plaintiffs attempted personal service at Officer Nunley's
 5 last known address five times after learning of a new address by January 17, 2024.
 6 Galvan Decl. ¶¶ 3c-d. Plaintiffs' counsel has contacted Officer Smith's criminal defense
 7 counsel in the matter *United States v. Nunley*, No. 23-CR-00213 YGR, to confirm the
 8 address and to ask whether counsel would accept service on his behalf. Galvan Decl. ¶¶
 9 3d, Exhibit K. Plaintiffs have not received a response to that email.

10 Rule 6(b) of the Federal Rules of Civil Procedure permits parties to seek an
 11 extension of time for any act that "may or must be done within a specified time." Fed. R.
 12 Civ. P. 6(b). Where the time for the required action has not yet expired and good cause
 13 exists, the Court may grant an extension *ex parte* or without notice. *Id.* at 6(b)(1)(A).
 14 Here, the time for the required action, as extended by this Court's order of February 7,
 15 2024, will not expire until March 15, 2024. Plaintiffs filed a Motion for Leave to Serve by
 16 Publication for the remaining two defendants, Smith and Nunley, on March 8, 2024. *See*
 17 ECF 207. If this Court grants the motion, service by publication requires four weeks to be
 18 completed. Cal. Civ. Pro. § 415.50(c); Cal. Gov't Code § 6064.

19 Having undertaken significant efforts to serve the individual remaining two
 20 Defendants named above, Plaintiffs request that the Court grant an enlargement of time
 21 under Rule 6(b) and Rule 4(i)(4), extending the time they have to effect service on the
 22 individual Defendants. Plaintiffs request that the time for service be extended to April 26,
 23 2024.

1 DATED: March 12, 2024

Respectfully submitted,

2 ROSEN BIEN GALVAN & GRUNFELD LLP

3 By: /s/ Luma Khabbaz

4 Luma Khabbaz

5 Attorneys for Plaintiffs